

**SECTION:** CERTIFICATION

**SUBJECT:** Disqualification

**ITEM:** *Prosecution and Recovery of Funds*



<b>Policy</b>	<p>When cost effective and appropriate, the participant/ alternate/ proxy/ parent/ guardian/ caretaker/ representative shall repay the WIC Branch for financial loss resulting from Program violations specified in WPM 280-20. Financial loss is limited to the value of the over issued food benefits. When cost effective and appropriate, the WIC Branch shall also pursue prosecution through state and local law enforcement authorities. Local agencies shall cooperate fully with the WIC Branch and law enforcement authorities in these matters.</p>
<b>Authority for policy</b>	<p>7 CFR 246.7 (l)(1)(iv) 7 CFR 246.12 (u) 7 CFR 246.23 (c)(1) 22 CCR 40757, and 40803.</p>
<b>Prosecution</b>	<p>The WIC Branch shall refer participants who violate program rules to federal, state, or local law enforcement authorities for prosecution under applicable statutes, when appropriate. The local agency <u>must</u> contact local law enforcement authorities in cases of check stock or printed food instrument theft. The local agency <u>may</u> contact local law enforcement authorities in cases of harm or threatened harm of WIC staff.</p>
<b>Pursuing recovery</b>	<p>Whenever the WIC Branch assesses a claim for financial loss in any amount due to a program violation, the WIC Branch will pursue/demand restitution for the full value of the loss. Recovery or restitution may not include offsetting the claim against future program benefits, even if agreed to by the participant or the parent or caretaker of an infant or child participant.</p>
<b>Guidelines for pursuing recovery</b>	<p>For all claims, the WIC Branch shall issue a letter demanding payment. If full restitution is not made or a repayment schedule is not agreed on within 30 days of receipt of the letter, the WIC Branch shall take additional collection actions. The WIC Branch will continue to pursue collection until restitution is made or a repayment schedule is agreed on, unless the WIC Branch determines that further collection actions would not be cost-effective.</p>

## **Guidelines for pursuing recovery (cont'd.)**

A repayment schedule shall be established based on the participant's ability to pay. The term of the repayment schedule shall be no longer than thirty-six (36) months, and no less than ten (\$10.00) per month.

The WIC Branch shall be responsible for notifying participants by written notice, with certified return receipt requested, of the reported Program violation, the total amount due for repayment, the term of the repayment schedule, and the monthly amount due. The first payment shall be due thirty (30) days from the receipt date of the written notice to the participant.

At the time of claim for repayment, the participant shall be advised of the right to a fair hearing, and that failure to agree to and fully comply with the repayment schedule may result in the participant being disqualified from the Program. The participant must receive 15-days advance notice prior to disqualification. If the participant appeals the action within those 15-days, the WIC Branch must continue to provide benefits until the participant's certification expires or an appeal decision is made, whichever occurs first.

If at any time the WIC Branch determines the participant is at least three (3) repayments in arrears, the WIC Branch shall disqualify the participant from the Program. The number of months of disqualification shall be determined as a pro-rated portion of the original 12 month penalty based on the percentage of months of unpaid restitution. Such disqualification shall commence on the date in the notification letter, shall be subject to notification requirements, and shall be subject to appeal as described above.

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## **Reapplication of Disqualified Participant**

The WIC Branch shall allow a disqualified participant to reapply for program benefits once the participant's claim has been repaid in full, or prior to full repayment if the WIC Branch determines that the participant is complying with the repayment schedule, or expiration of the disqualification period, whichever occurs first. In such instances the disqualified participant may reapply as a new applicant and meet all Program eligibility requirements, as specified in WPM Section 280-20.

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## **Record Keeping**

The WIC Branch shall be responsible for documentation of the participant's violation and claim record. All actions and determinations, including a determination that it is not cost effective to pursue further collection actions, must be documented in the case file.

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